

MODULE 10B

APPARATUS

LEGAL CONSIDERATIONS IN EMERGENCY VEHICLE OPERATIONS

Instructor Guide

DRIVING

MODULE 10B APPARATUS

Terminal Learning Objectives. By the end of this lesson the firefighter recruit will:

1. Become familiar with current laws and regulations regarding vehicle operations in response to an emergency.
2. Understand legal concepts that affect vehicle operations in response mode.
3. Understand limits and responsibilities of vehicle operators during emergency response.

Enabling Objectives

Requirements

Facility: Classroom with tables and chairs.

Materials:

Student Manual
Instructor Manual

Equipment:

Computer
Video Projector
Dry Erase Board and Markers
Copies of IC 36-8-12-11 if more details are needed regarding specifics on candlepower, placement, and location of blue lights on personal vehicles.

References

Indiana Code:

I.C. 36-8-12-11 (2004) Private Vehicles
I.C. 36-8-10.5-7 (2005) Mandatory Training
I.C. 9-21-1-8 (1991) Emergency Vehicles
I.C. 9-13-2-6 (1991) Authorized Emergency Vehicles
I.C. 9-21-8-35 (1991) Right-of-Way

Indiana Administrative Code:

140 IAC 7-13-16 (2003) Commercial Exemptions
655 IAC 1-4-2 (2005) Mandatory Training

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Case Law	Bailey v. Edison Charitable Foundation, 152 Ind. App. 460; 284 NE2d 141(Ind. App 1972)
NFPA:	1500 Firefighter Occupational and Safety Standard 1002 Fire Department Vehicle Driver/Operator Professional Qualifications
Methodology	This module is taught through use of lecture, conference, discussion, video and practical exercise.
Module Length	60 Minutes (With 10 question exam)
Audio-Visual	PowerPoint Presentation: Apparatus, Module 10B, Slides 1-31

There is a disc available from State Firefighter Training to accompany this module.

DRIVING

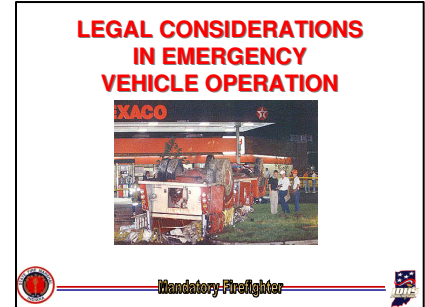
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DRIVING

DRIVING

I. INTRODUCTION

A. Introduction. This segment of Module 10 (Apparatus) is a critically important block of information concerning driving of the apparatus and other emergency vehicles. You will be tested on this information later.



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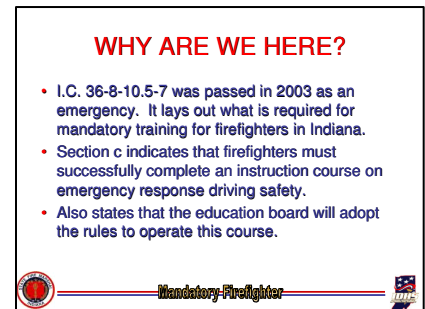
B. Administrative announcements.

NOTE: *The instructor should make any administrative announcements necessary prior to the start of the lesson.*

C. Purpose of this module. The purpose of this module is to provide you, the recruit firefighter, a basic understanding of Indiana laws regarding the driving of the trucks and engines associated with firefighting. It will keep you safe and out of trouble with the law. This training is mandated by state regulation for all entry level firefighters.

1. Why are we here?

- a. IC 36-8-10.5-7 was passed in 2003- the legislature thought it important enough to be considered an emergency that needed to be addressed immediately. The statute lays out what is required for "Mandatory Training" in Indiana. (the things ALL firefighters in Indiana should know)



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- b. Section (c) of the statute requires that ALL firefighters (whether previously 24-hour, basic, mandatory, FFI/II, etc.) complete an instruction course on emergency response driving safety.



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- c. In 2004, the Board of Firefighting Personnel Standards and Education created 655 IAC 1-4-2 which sets out the general requirements for mandatory firefighter training.
- d. The driving portion of this includes: safely mounting and dismounting apparatus, riding on apparatus, safe driving of apparatus, and basic traffic and firefighting liability laws

WHY ARE WE HERE?

- In 2004 the "Board" created 655 IAC 1-4-2 which sets out the general requirements for mandatory firefighter training.
- The driving portions include: safely mounting and dismounting apparatus, riding on apparatus, safe driving of apparatus, defensive driving, and basic traffic and firefighting liability laws.



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D. Scope of this module. For the next hour, we will discuss various laws pertaining to driving emergency vehicles. There will be a short examination over the topics discussed to test your retention and comprehension.

E. Objectives. By the end of this module, you will:

1. Become familiar with current laws and regulations regarding vehicle operations in response to an emergency.
2. Understand legal concepts that affect vehicle operations in response mode.
3. Understand limits and responsibilities of vehicle operators during emergency response.

OBJECTIVES

- Become Familiar with Current Laws and Regulations Regarding Vehicle Operation in Response to an Emergency.
- Understand Legal Concepts that Affect Vehicle Operation in response mode.
- Understand Limits and Responsibilities of Vehicle Operators during Emergency Response.



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F. Conditions. The instruction you receive in this module is intended for firefighter recruits, meaning, it is our assumption that you know little or nothing about firefighting. Instruction will take place here in a classroom environment. We will use lecture, conference, demonstration, and practical exercise methods to deliver your instruction.

G. Transition. Your fire department has a variety of vehicles that are large, complicated, and potentially dangerous. We have looked at the vehicles themselves; now let's talk about how they should be operated on public streets and highways, and the laws that apply.

II. BODY.

DRIVING

A. Types of Laws and Regulations.

1. Indiana code.
2. Administrative law.
3. Local ordinances.
4. SOG and SOP.
5. Case law

TYPES OF LAWS AND REGULATIONS

- Indiana Code
- Administrative Law
- Local Ordinances
- SOG and SOP
- Case law






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B. Indiana code.

1. Created by legislature- elected representatives meet to create "law" for Indiana.
2. I.C. 36-8-10.5-7(c) - Mandatory Training.
3. I.C. 9-21-1-8- Emergency Vehicles.
4. I.C. 36-8-12-11- Blue Lights.
5. I.C. 9-13-2-6- Authorized Emergency Vehicles.
6. I.C. 9-21-17-20- Use of Audible and Visual Signals.
7. I.C. 9-21-8-35- Emergency Vehicle Right-of-Way

INDIANA CODE

- Indiana Code is created by legislature.
- Some examples that apply to the fire service.
 - I.C. 36-8-10.5-7(c)- Mandatory Training
 - I.C. 9-21-1-8- Emergency Vehicles
 - I.C. 36-8-12-11- Blue Lights
 - I.C. 9-13-2-6- Authorized Emergency Vehicles
 - I.C. 9-21-17-20- Use of Audible and Visual Signals
 - I.C. 9-21-8-35- Emergency Vehicle Right-of-Way



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C. Administrative agencies. Examples:

1. Board of Firefighting and Personnel Standards.
2. Bureau of Motor Vehicles (BMV).
3. Indiana Occupational Safety and Health Agency (IOSHA)

Administrative Agencies

- Board of Firefighting and Personnel Standards
- Bureau of Motor Vehicles
- IOSHA
 - These agencies are created by legislature and are charged with the duty to create administrative rules.
 - For our purposes, administrative rules have the same force of law.



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DRIVING

- (1) The agency itself is created by legislature and given the responsibility to create administrative rules governing the specific area they were created for (i.e.: BMV creates rules about motor vehicles in Indiana).
- (2) These rules are "law" in Indiana.
- (3) Examples in Indiana:
 - (a) 140 IAC 7-3-16 (exemption for commercial drivers license for emergency vehicle operators)
 - (b) 55 IAC 1-4-2(5) (driving portion of mandatory)
 - (c) OHSA v. NFPA- Indiana is OSHA, we have not adopted the Federal standards set out in NFPA, but we try to comply as often as possible. NFPA is a guideline in Indiana.

Administrative Agencies

- Some examples of administrative rules that apply to the fire service.
 - BMV 140 I.A.C. 7-3-16 (exempt from commercial drivers license)
 - 655 I.A.C. 1-4-2 (5)



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Administrative Agencies (cont)

- OSHA vs. NFPA
- Indiana is an OSHA state
- NFPA is a guideline in Indiana, but all of our certifications and IFSAC options comply with NFPA.
- 1500 Occupational Health and Safety Std.
- 1002 Driver/Operator Std.



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D. Other Regulations that may affect the fire service.

1. Local ordinances- created by county, city, town, township, etc.
2. They create additional "law" for those members of that community
 - a. Department SOG/SOP/Bylaws- internal "laws".
 - b. Case law- another way "law" is created in Indiana. When a lawsuit, criminal or civil, concludes in the local court system, the "loser" may appeal to a higher court in Indiana. If the case is heard by that court an opinion is issued and that opinion becomes "law".

Other Regulations

- Local Ordinances
- SOG and SOP
- Case law



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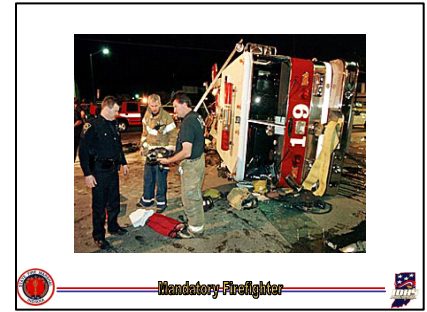


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E. What is an emergency?

1. Legally defined by statute as- high probability of death or serious injury to an individual or significant loss to property. (Most other states have a similar definition).
2. Includes emergency vehicles responding to but not returning from an emergency call in an authorized emergency vehicle (not your PV).
3. What is NOT an emergency- stand-by, response to cover an empty station?



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WHAT IS AN EMERGENCY?

- High probability of death or serious injury to an individual or significant loss to property.
- Emergency includes responding to but not returning from an emergency call in an authorized emergency vehicle (not your PV).
- What is not an emergency? Going to a stand-by or to cover an empty station, etc.

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F. What is an authorized emergency vehicle. Legally defined by statute as -Fire department vehicle (not pv), also includes ambulances, police vehicles, others as defined by INDOT.

WHAT IS AN AUTHORIZED EMERGENCY VEHICLE?

- Fire Department Vehicles, not POV's.

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G. Public Duties in emergency situations.

1. What SHOULD the public do?
 - a. Pedestrians- yield the right-of-way upon the approach of an emergency vehicle.
 - b. Drivers- yield and drive as close to the edge or curb as possible.
 - c. Drivers- upon the approach of a stationary vehicle, change lanes, reduce speed, and use caution.

PUBLIC DUTIES IN EMERGENCY SITUATIONS

- Pedestrians shall yield the right-of-way upon the approach of an emergency vehicle.
- Drivers shall yield and drive to the right as close to the edge or curb as possible.
- Upon approach of a stationary vehicle, change lanes, reduce speed, use caution.

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DRIVING

H. Emergency vehicle operator responsibilities.

- a. MUST use audible or visual signals (lights or sirens).
- b. MAY proceed past a red signal or stop sign only after slowing down as necessary for safe operation.
- c. MAY exceed max. Speed limit if does not endanger life or property.
- d. MAY disregard regulations governing direction of movement (wrong-way down a one-way street, driving into oncoming traffic).

EMERGENCY VEHICLE OPERATOR RESPONSIBILITIES

- Must use Audible or Visual Signals.
- May proceed past a red signal or stop sign only after slowing down as necessary for safe operation.
- May exceed max. speed limit if does not endanger life or property.
- May disregard regulations governing direction of movement. (wrong way down a one-way, driving in on-coming traffic lanes)
- HOWEVER.....


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I. Legal Duties of the Driver.

1. Due regard.
2. Reckless disregard.
3. Negligence.
4. Vicarious liability.

However...The Statutes Place Legal Duties On The Driver!



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J. Due regard.

1. Legal term.
2. Would a reasonably careful person performing similar duties under the same circumstances react in the same manner? (Reasonable person test).
3. All statutes regarding pedestrian and driver responsibilities state that the driver is NOT relieved of the duty to drive with due regard.
4. The case cited in the reference section reaffirms the statutory duty to drive with due regard for the safety of all persons measured under the circumstances.

DUE REGARD

- Legal term meaning: Would a reasonably careful person performing similar duties under the same circumstances react in the same manner?
- All statutes relating to pedestrian and driver responsibilities state that the driver of the emergency vehicle is not relieved from the duty to drive with due regard.

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K. Reckless disregard.

1. Legal term.
2. Taking an unreasonable risk without concern for the life or safety of others.
3. Driver responsibility statute- does not protect driver from reckless disregard for the safety of others.

RECKLESS DISREGARD

- Legal term meaning: taking an unreasonable risk without concern for the life or safety of others.
- The statute regarding vehicle operator responsibility does not protect the person driving from the consequences of that persons reckless disregard for the safety of others.



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L. Negligence.

1. Legal term.
2. Omission of something a reasonable person in those circumstances would have done.
3. Fail to act with due regard = negligent.

NEGLIGENCE

- Legal term meaning: the omission of something a reasonable person in those circumstances would have done.
- If you fail to act with due regard, you may be negligent.



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M. Vicarious liability.

1. Legal term.
2. Legal liability placed on one person for the acts committed by another.
3. Who may be responsible for the drivers negligence? Fire department, chief officers, training officers, etc.

VICARIOUS LIABILITY

- Legal term meaning: the legal liability placed on one person for the acts committed by another.
- Your department, fire chief, officers, training officer, etc. may be sued as well as the driver himself.



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N. Liability.

1. Criminal- jail time, criminal record, dismissal from department.
2. reckless homicide, manslaughter, criminal recklessness.
3. civil- monetary loss
 - a. Insurance may not cover all of the loss.
 - b. There is some law in Indiana that prevents municipalities from lawsuits, but WILL NOT, help in these circumstances.

LIABILITY

- Criminal
 - May result in jail time, criminal record, dismissal from your fire department.
- Civil
 - May result in a large monetary settlement, loss of property.



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O. Indiana Incidents.

1. 2001, Southern Indiana, resulted in the death of a civilian.
2. Criminal.
3. Volunteer firefighter was responding to a call in his POV and struck a civilian car while he was passing a line of cars.
4. Pleaded guilty to criminal recklessness and sentenced to one year in jail.

Indiana Incidents

- 2001 incident in Southern Indiana which resulted in the death of a civilian.
- Volunteer firefighter, while responding to a call in his personal vehicle, hit a civilian as he was passing a line of cars.
- Pleaded guilty to criminal reckless and a one year jail sentence.



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P. Operator responsibilities.

1. Emergency vehicle operators are held to a higher standard of care than other drivers.
2. Must be "better" drivers, aware of surroundings, able to drive in high stress and high traffic and know their area.
3. Civilian drivers are not required to drive with due regard for others.

Operator Responsibility

- Emergency vehicle operators are held to a higher standard of care than others.
- That means that you are expected to be aware of your surroundings, be able to drive in high stress and high traffic situations and generally be "better" drivers.
- Other drivers are not required to drive with due regard.



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Q. What you can do to limit liability?

1. Know your areas, traffic patterns, etc.
 2. Be extra careful in unfamiliar areas, mutual aid, etc.
 3. Practice, practice, practice.
 4. Create and abide by department rules.
 - a. for qualifications to be able to drive apparatus.
 - b. for regulations on response to emergency calls
 - c. for maintenance on vehicles- can be liable for not properly maintaining vehicles.
- (1) STOP at all intersections and proceed when granted the right-of-way by other drivers.
 - (2) Other drivers stop and acknowledge your presence.
 - (3) May need to be aggressive, but cautious.

What you can do to limit liability.

- Know your area and traffic patterns, be extra careful in mutual aid areas that you may not be as familiar with.
- Practice, Practice, Practice.
- Create and abide by department rules.
- Stop at all intersections and proceed on when granted the right-of-way; be aggressive, but cautious.



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R. Department SOP's/SOG's

1. Critical for smooth operation.
2. Be careful of specifics.
 - a. Example- an SOP stating that the drivers can exceed the speed limit by 10mph may be detrimental to the department should an accident occur because there are circumstances in which a driver should not be going 10mph over and may fail to use due regard by exceeding the speed limit at all.
 - b. Bad weather, especially crowded areas.
 - c. Determine guidelines for what types of calls should be considered a non-emergency (burning complaint, coverage at another station, etc.).
 - d. Determine qualifications for drivers to be able to operate apparatus.

Department SOP'S/SOG'S

- Critical for smooth department operation, but be careful of specifics.
- For example, an SOP stating that the driver is allowed to exceed the posted speed limit by 10 mph. A fixed number may be detrimental to the department should an accident occur.
- Determine guidelines for the types of calls that should be considered non-emergency. (burning complaint, coverage of another station, etc.)



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S. Case law

1. None specific in this area, but courts would consider;
2. Did the driver have a duty to drive with due regard? (Yes if an emergency vehicle enroute to an emergency).
3. Did the driver breach that duty?
4. Was there an injury or a loss as a proximate result? (Did the actions of the driver hurt someone or damage property).

CASE LAW

- While there is no clear case law with regard to this subject, a Court may consider the following when determining guilt or innocence:
 - Did the driver have a duty to drive with due regard?
 - Did the driver breach that duty?
 - Was there an injury or a loss as a proximate result?



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T. Two-Step Determination for Liability

1. Was it a true emergency?
2. Did you act with due regard for the safety of others in the circumstances?

TWO-STEP DETERMINATION FOR LIABILITY

- Was it a true emergency?
- Did you act with due regard for the safety of others in the circumstances?



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DRIVING

U. Blue Light Law

1. DOES NOT grant exemption from ANY traffic laws
2. Civilians ARE NOT required to pull over if you have your blue light activated
3. IC 36-8-12-11 has specifics on candlepower, location, and placement of blue lights (have handouts available for questions)
4. Must have written permission from the fire chief to display the blue light and must carry that permit at all times you are displaying blue lights
5. Violations of blue light law- subject to department rules, can get ticket, etc. from law enforcement

BLUE LIGHT LAW

- DOES NOT grant exemption from traffic laws.
- Civilians are not required to pull over for you even if you have your blue light activated.
- What type of lights can you have? Specifics on candlepower, location and placement are found in IC 36-8-12-11.
- Must have written permission from the fire chief to display a blue light and must carry the permit at all times.
- What Happens if you violate the Blue Light Law? Subject to your departments rules. (Chief decides)



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III. Review and Closing.

A. Review. For the last hour, we have discussed some things relating to safely driving and riding on the apparatus. These included:

1. Don't drive as an emergency vehicle unless necessary.
2. Emergency vehicle operators are granted some exemptions to driving regulations, but are held to a higher standard of care than civilian drivers.
3. Exemptions apply only in emergencies.
4. Subject to all other driving laws (tail light out, etc.).
5. Blue lights do not allow PV's to violate traffic laws.
6. A driver can still be held civilly or criminally liable even if acting under an exemption

REVIEW

- Don't drive as an emergency vehicle if you don't have to.
- Emergency vehicle operators are granted some exemptions, but are held to a higher standard of care.
- Exemptions apply only in emergencies.
- Subject to all other driving laws (tail lights out).
- A blue light does not allow the driver to violate traffic laws.
- A driver can still be held criminally or civilly liable even if acting under an exemption.



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B. Closing.

1. Questions. What are your questions pertaining to anything we have discussed over the past hour?
2. Closing focus point: Unsafe acts on or around the apparatus or any emergency vehicle can be the primary cause of death or injury of yourself or others. Know the laws and strictly abide by them.

QUESTIONS

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DRIVING

LEGAL CONSIDERATIONS IN EMERGENCY VEHICLE OPERATIONS EXAM

1. What can be done to limit liability in emergency vehicle operations?
 - a. Stop at all intersections and proceed when granted the right-of-way.
 - b. Know your service area and traffic patterns.
 - c. Practice driving.
 - d. All of the above.
2. What is the legal meaning of reckless disregard?
 - a. The legal liability placed on one person for the acts of another.
 - b. The omission of something a reasonable person would do in those circumstances.
 - c. Taking an unreasonable risk without concern for the life or safety of others.
 - d. Failure to use lights and sirens.
3. What level of care is required by emergency vehicle operators?
 - a. Due Regard.
 - b. Willful and Wanton.
 - c. Vicarious Liability.
 - d. Recklessness.
4. Types of regulations governing emergency vehicle operations can include which of the following?
 - a. Indiana statutes.
 - b. Local ordinances.
 - c. Department SOP's.
 - d. All of the above.
5. A high probability of death or serious injury or a significant loss to property is :
 - a. Liability.
 - b. Negligence.
 - c. Reckless disregard.
 - d. An emergency.
6. The "Blue Light Law" allows a firefighter, while driving his personal vehicle to:
 - e. Run stop signs.
 - f. Exceed posted speed limits.
 - g. Display a blue light while in route to an emergency scene.
 - h. Run other drivers off the road.

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7. An emergency vehicle operator must always:
 - a. Stop completely at all stoplights and signs.
 - b. Drive with due regard.
 - c. Obey the speed limit.
 - d. Use both audible and visual signals.
8. Who is required to complete an instructional course on emergency response driving safety?
 - a. All firefighters.
 - b. Firefighters designated as driver/operators.
 - c. Firefighters currently completing mandatory training.
 - d. Fire officers.
9. Indiana Code gives emergency vehicle operators some exemptions to traffic laws, these include:
 - a. May proceed past a red light or signal after slowing down as necessary for safe operation.
 - b. May exceed the maximum speed limit if it does not endanger life or property.
 - c. Must use audible or visual signals.
 - d. All of the above.
10. The question, Would a reasonably careful person performing similar duties under the same circumstances react in the same manner?, describes:
 - a. Liability.
 - b. Recklessness.
 - c. Negligence.
 - d. Due regard.